

REFERENCE TITLE: **weights and measures; reference standards**

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2096

Introduced by
Representatives Reagan: McComish

AN ACT

**AMENDING SECTIONS 41-2051, 41-2063 AND 41-2065, ARIZONA REVISED STATUTES;
RELATING TO THE DEPARTMENT OF WEIGHTS AND MEASURES.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-2051, Arizona Revised Statutes, is amended to
3 read:

4 41-2051. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Biodiesel" means a diesel fuel substitute that satisfies all of
7 the following:

8 (a) Is produced from nonpetroleum renewable resources if the
9 qualifying volume of nonpetroleum renewable resources meets the standards for
10 California diesel fuel as adopted by the California air resources board
11 pursuant to 13 California code of regulations sections 2281 and 2282 in
12 effect on January 1, 2000.

13 (b) Meets the registration requirement for fuels and additives
14 established by the environmental protection agency pursuant to section 211 of
15 the clean air act as defined in section 49-401.01.

16 (c) The use of the diesel fuel substitute complies with the
17 requirements listed in 10 Code of Federal Regulations part 490, as printed in
18 the federal register, volume 64, number 96, May 19, 1999.

19 (d) Is sold, offered or exposed for sale as a neat product or blended
20 with diesel fuel.

21 2. "Certification" means the process of determining the accuracy of a
22 commercial device to the standards of this state by a registered service
23 representative or the department.

24 3. "Commercial device" means any weighing, measuring, metering or
25 counting device that is used to determine the direct cost of things sold or
26 offered or exposed for sale, or used to establish a fee for service if the
27 cost is based on weight, measure or count, except that it does not include
28 those devices used for in-house packaging, inventory control or law
29 enforcement purposes.

30 4. "Commodity" means any merchandise, product or substance produced or
31 distributed for sale to or use by others.

32 5. "Correct" as used in connection with weights and measures means
33 conformance to all applicable requirements of this chapter.

34 6. "Department" means the department of weights and measures.

35 7. "Diesel" means a refined middle distillate for use as a fuel in a
36 compression-ignition internal combustion engine.

37 8. "Director" means the director of the department of weights and
38 measures.

39 9. "Inspector" means state officials of the department of weights and
40 measures.

41 10. "Limousine" means a motor vehicle providing prearranged ground
42 transportation service for an individual passenger, or a group of passengers,
43 that is arranged in advance or is operated on a regular route or between
44 specified points and includes ground transportation under a contract or
45 agreement for services that includes a fixed rate or time and is provided in

1 a motor vehicle with a seating capacity not exceeding fifteen passengers,
2 including the driver.

3 11. "Liquid fuel measuring device" means any meter, pump, tank, gauge
4 or apparatus used for volumetrically determining the quantity of any internal
5 combustion engine fuel, liquefied petroleum gas or low viscosity heating oil.

6 12. "Livery vehicle" means a motor vehicle that:

7 (a) Has a seating capacity not exceeding fifteen passengers including
8 the driver.

9 (b) Provides passenger services for a fare determined by a flat rate
10 or flat hourly rate between geographic zones or within a geographic area.

11 (c) Is available for hire on an exclusive or shared ride basis.

12 (d) May do any of the following:

13 (i) Operate on a regular route or between specified places.

14 (ii) Offer prearranged ground transportation **SERVICE** as defined in
15 section 28-141.

16 (iii) Offer on demand ground transportation service pursuant to a
17 contract with a public airport, licensed business entity or organization.

18 13. "Motor fuel" means biodiesel or a petroleum or a petroleum based
19 substance that is motor gasoline, aviation gasoline, number one or number two
20 diesel fuel or any grade of oxygenated gasoline typically used in the
21 operation of a motor engine.

22 14. "Package" means any commodity enclosed in a container or wrapped in
23 any manner in advance of sale in units suitable for either wholesale or
24 retail trade.

25 15. "Person" means both the plural and the singular, as the case
26 demands, and includes individuals, partnerships, corporations, companies,
27 societies and associations.

28 ~~17.~~ 16. "Public weighmaster" means any person who is engaged in any of
29 the following:

30 (a) The business of weighing any object or thing for the public
31 generally for hire or for internal use and issuing for that weighing a weight
32 certificate intended to be accepted as an accurate weight upon which a
33 purchase or sale is to be based or on which a service fee is to be charged.

34 (b) The business of weighing for hire motor vehicles, trailers or
35 semitrailers and issuing weight certificates intended to be accepted as an
36 accurate weight for the purpose of determining the amount of any tax, fee or
37 other assessment on the vehicles.

38 ~~16.~~ 17. "~~Primary~~ **REFERENCE** standards" means the physical standards of
39 the state that serve as the legal reference from which all other standards
40 and weights and measures are derived.

41 18. "Registered service agency" means any agency, firm, company or
42 corporation that for hire, award, commission or any other payment of any kind
43 installs, services, repairs or reconditions a commercial device or tests or
44 repairs vapor recovery systems or vapor recovery components and that has been
45 issued a license by the department.

1 19. "Registered service representative" means any individual who for
2 hire, award, commission or any other payment of any kind installs, services,
3 repairs or reconditions a commercial device or tests or repairs vapor
4 recovery systems or vapor recovery components and who has been issued a
5 license by the department.

6 20. "Retail seller" means a person whose business purpose is to sell,
7 expose or offer for sale or use any package or commodity by weight, measure
8 or count.

9 21. "Sale from bulk" means the sale of commodities when the quantity is
10 determined at the time of sale.

11 22. "Secondary standards" means the physical standards that are
12 traceable to the ~~primary~~ REFERENCE standards through comparisons, using
13 acceptable laboratory procedures, and that are used in the enforcement of
14 weights and measures laws and rules.

15 23. "Taxi" means a motor vehicle that has a seating capacity not
16 exceeding fifteen passengers, including the driver, that is registered as a
17 taxi in this state or any other state, that provides passenger services and
18 that:

19 (a) Does not operate on a regular route or between specified places.

20 (b) Offers local transportation for a fare determined primarily on the
21 basis of the distance traveled.

22 24. "Taxi meter" means a commercial device that meets the requirements
23 of the national institute of standards and technology handbook 44 as
24 prescribed by section 41-2064.

25 25. "Weight" as used in connection with any commodity means net weight.

26 26. "Weights" or "measures", or both, means all weights, measures,
27 meters or counters of every kind, instruments and devices for weighing,
28 measuring, metering or counting and any appliance and accessories associated
29 with any or all such instruments and devices.

30 Sec. 2. Section 41-2063, Arizona Revised Statutes, is amended to read:

31 41-2063. Physical standards

32 Weights and measures that are traceable to the United States prototype
33 standards supplied by the federal government, or approved as being
34 satisfactory by the national institute of standards and technology, shall be
35 the state ~~primary~~ REFERENCE standards of weights and measures, and shall be
36 maintained in such calibration as prescribed by the national institute of
37 standards and technology. All secondary standards may be prescribed by the
38 director and shall be verified upon their initial receipt and as often
39 thereafter as deemed necessary by the director.

40 Sec. 3. Section 41-2065, Arizona Revised Statutes, is amended to read:

41 41-2065. Powers and duties; definition

42 A. The department shall:

43 1. Maintain custody of the state REFERENCE standards of ~~weight~~ WEIGHTS
44 and ~~measure~~ MEASURES that are traceable to the United States prototype
45 standards and that are supplied to the states by the federal government or

1 that are otherwise approved as being satisfactory by the national institute
2 of standards and technology.

3 2. Keep the state ~~primary~~ REFERENCE standards in a safe and suitable
4 place in the metrology laboratory of the department and ~~insure~~ ENSURE that
5 they shall not be removed from the laboratory except for repairs or for
6 calibration as may be prescribed by the national institute of standards and
7 technology.

8 3. Keep accurate records of all standards and equipment.

9 4. Adopt any rules necessary to carry out this chapter and adopt
10 reasonable rules for the enforcement of this chapter. These rules have the
11 force and effect of law and shall be adopted pursuant to chapter 6 of this
12 title. In adopting these rules, the director shall consider, as far as is
13 practicable, the requirements established by other states and by authority of
14 the United States, except that rules shall not be made in conflict with this
15 chapter.

16 5. Publish rules adopted pursuant to this chapter and issue
17 appropriate copies at no cost to all new applicants for licensure and
18 certification. Updated copies of the rules shall be distributed, on request,
19 at no cost to the public.

20 6. Investigate complaints made to the department concerning violations
21 of this chapter and, on its own initiative, conduct investigations it deems
22 appropriate to develop information relating to prevailing procedures in
23 commercial quantity determination and relating to possible violations of this
24 chapter, and in order to promote the general objective of accuracy in the
25 determination and representation of quantity in commercial transactions.

26 7. Establish labeling standards, establish standards of weight,
27 measure or count and establish reasonable standards of fill for any packaged
28 commodity, and may establish standards for open dating information.

29 8. Grant, pursuant to this chapter, exemptions from the licensing
30 provisions of this chapter for weighing and measuring instruments, standards
31 or devices when the ownership or use of the instrument or device is limited
32 to federal, state or local government agencies in the performance of official
33 functions. On request, the department may conduct inspections of the
34 instruments, standards or devices and shall charge a fee pursuant to section
35 41-2092, subsection B.

36 9. Delegate to appropriate personnel any of the responsibilities of
37 the director for the proper administration of this chapter.

38 10. Inspect and test weights and measures kept, offered or exposed for
39 sale.

40 11. Inspect and test, to ascertain if they are correct, weights and
41 measures commercially used either:

42 (a) In determining the weight, measure or count of commodities or
43 things sold, or offered or exposed for sale, on the basis of weight, measure
44 or count.

1 (b) In computing the basic charge or payment for services rendered on
2 the basis of weight, measure or count.

3 12. Test, at random, commodities, weights and measures used in public
4 institutions for which monies are appropriated by the legislature. The
5 testing of commodities, weights and measures in public institutions shall
6 include, but not be limited to, items:

7 (a) That have historically been of short weight, measure or count.

8 (b) Found to be of short weight, measure or count by other
9 jurisdictions.

10 (c) To be tested as part of a regional or national survey.

11 13. Test, approve for use and affix a seal of approval for use of all
12 weights, measures and commercial devices manufactured in or brought into this
13 state as it finds to be correct and shall reject and mark as rejected
14 weights, measures and devices it finds to be incorrect. Weights, measures
15 and devices that have been rejected may be seized by the department if not
16 corrected within the time specified or if used or disposed of in a manner not
17 specifically authorized. The department shall condemn and may seize weights,
18 measures and devices that are found to be incorrect and that are not capable
19 of being made correct.

20 14. Sample and test motor fuel that is stored, sold or exposed or
21 offered for sale or that is stored for use by a fleet owner to determine
22 whether the motor fuel meets the standards for motor fuel set forth in
23 section 41-2083 and article 6 of this chapter and in any rule adopted by the
24 director pursuant to this chapter. For the purposes of this paragraph,
25 "fleet owner" has the same meaning prescribed in section 41-2121.

26 15. Test all mandated stage I and stage II vapor recovery systems that
27 are installed or operated in this state not less than annually and if the
28 systems are determined to be in compliance with the law approve those systems
29 for use and reject, mark as rejected and stop the use of those systems
30 determined not to be in compliance with the law.

31 16. Inspect facilities at which motor fuel is stored, sold or exposed
32 or offered for sale to determine whether dispensing devices are properly
33 labeled.

34 17. Publish and distribute to consumers weighing and measuring
35 information.

36 18. Weigh, measure or inspect commodities kept, offered or exposed for
37 sale, sold or in the process of delivery to determine whether they contain
38 the amounts represented and whether they are kept, offered or exposed for
39 sale in accordance with this chapter or rules adopted pursuant to this
40 chapter. In carrying out the provisions of this section, the director shall
41 employ recognized sampling procedures, such as are designated in appropriate
42 national institute of standards and technology handbooks and supplements to
43 those handbooks, except as modified or rejected by rule.

44 19. Allow reasonable variations from the stated quantity of contents
45 only after a commodity has entered intrastate commerce. These variations

1 shall include those caused by loss or gain of moisture during the course of
2 good distribution practice or by unavoidable deviations in good manufacturing
3 practice.

4 20. Prescribe the standards of weight and measure and additional
5 equipment methods of test and inspection to be employed in the enforcement of
6 this chapter. The director may prescribe or provide the official test and
7 inspection forms to be used in the enforcement of this chapter.

8 21. Apply to any court of competent jurisdiction for a temporary or
9 permanent injunction restraining any person from violating this chapter.

10 22. Report to the governor on August 1 each year and at such other
11 times as may be required on the work accomplished under this chapter.

12 23. Employ such personnel as needed to assist in administering this
13 chapter.

14 24. Ensure that any information that is required to be filed with the
15 department, that relates to the contents of motor fuels that are sold in this
16 state and that is a trade secret as defined in section 49-201 is not
17 disclosed.

18 25. Establish by rule labeling standards for tanks and containers of
19 motor fuels.

20 B. The director may provide for the periodic examination and
21 inspection of metering devices, including but not limited to devices utilized
22 to measure usage of electricity, natural gas or water by a consumer.
23 Examination and inspection authority shall not apply to metering devices
24 owned by federal, state or local government agencies unless requested by the
25 government agency that owns the metering devices.

26 C. The director may establish standards for the presentation of
27 cost-per-unit information. Nothing in this subsection shall be construed to
28 mandate the use of cost-per-unit information in connection with the sale of
29 any standard packed commodity.

30 D. The director ~~may~~, when necessary to carry out this chapter, MAY
31 adopt and enforce rules relating to quality standards for motor fuel,
32 kerosene, oil, except used oil fuel, and hazardous waste fuel, lubricating
33 oils, lubricants, antifreeze and other liquid or gaseous fuels. The director
34 shall adopt rules to assure that oxygenated fuels, as described in article 6
35 of this chapter, stored, used, sold or exposed or offered for use or sale are
36 blended and stored, sold, exposed or offered in such a manner as to assure
37 that the oxygenated fuels are properly blended, that they meet the standards
38 set forth in section 41-2083 and article 6 of this chapter, and in rules
39 adopted pursuant to this chapter, and that dispensers at which the oxygenated
40 fuels are dispensed are labeled as defined by rule of the department in such
41 a manner as to notify persons of the type of oxygenated fuel being dispensed
42 and the maximum percentage of oxygenate by volume contained in the oxygenated
43 fuel. The director of the department of weights and measures shall consult
44 with the director of the department of environmental quality in adopting
45 rules pursuant to this subsection.

1 E. Testing and inspection conducted pursuant to this chapter shall be
2 done, to the extent practicable, without prior notice, by a random systematic
3 method determined by the director or in response to a complaint by the
4 public. The testing and inspection may be done by private persons and firms
5 pursuant to contracts entered into by the director in accordance with chapter
6 23 of this title or by a registered service agency or registered service
7 representative licensed pursuant to section 41-2094. The director shall
8 establish qualifications of persons and firms for selection for purposes of
9 this subsection. The persons or firms conducting the testing and inspection
10 shall immediately report to the department any violations of this chapter and
11 incorrect weights, measures, devices, vapor recovery systems or vapor
12 recovery components for investigation and enforcement by the department. A
13 person or firm that tests or inspects a weight, measure, device, vapor
14 recovery system or vapor recovery component that is rejected shall not
15 correct the defect causing the rejection without the permission of the
16 department.

17 F. During the course of an investigation or an enforcement action by
18 the department, information regarding the complainant is confidential and is
19 exempt from title 39, chapter 1, unless the complainant authorizes the
20 information to be public.

21 G. For THE purposes of the labeling requirements prescribed in this
22 section, "oxygenated fuel" means a motor fuel blend containing 1.5 per cent
23 or more by weight of oxygen.